

1 ROBERT W. FERGUSON  
2 *Attorney General*  
3 RENE D. TOMISSER, WSBA #17509  
4 *Senior Counsel*  
5 JEFFREY T. SPRUNG, WSBA #23607  
6 ZACHARY P. JONES, WSBA #44557  
7 JOSHUA WEISSMAN, WSBA #42648  
8 PAUL M. CRISALLI, WSBA #40681  
9 NATHAN K. BAYS, WSBA #43025  
10 BRYAN M.S. OVENS, WSBA #32901  
11 *Assistant Attorneys General*  
12 8127 W. Klamath Court, Suite A  
13 Kennewick, WA 99336  
14 (509) 734-7285

15 **UNITED STATES DISTRICT COURT  
16 EASTERN DISTRICT OF WASHINGTON  
17 AT SPOKANE**

18 STATE OF WASHINGTON, et al.,

19 NO. 4:19-cv-05210-RMP

20 Plaintiffs,

21 PARTIES' JOINT STATUS  
22 REPORT

v.

23 UNITED STATES DEPARTMENT  
24 OF HOMELAND SECURITY, a  
25 federal agency, et al.

26 Defendants.

27  
28 Pursuant to the Court's November 14, 2019 Notice, the parties submit this  
29 status report regarding the schedule for this case. Counsel for Plaintiffs and  
30 Defendants conferred telephonically on December 13, 2019 and discussed a  
31 discovery timetable, a cross-dispositive motion briefing schedule, and a deadline

1 for Defendants to answer Plaintiffs' Amended Complaint. In summary, the  
2 parties are not in agreement concerning Plaintiffs' entitlement to a privilege log  
3 or discovery on their Equal Protection Clause claim. They have, however, agreed  
4 to a prompt briefing schedule to allow the Court to resolve these disputes, which  
5 they set out below. Further, also as explained below, the parties believe that the  
6 foregoing disputes should be resolved before they are required to submit a  
7 dispositive motion briefing schedule and deadline for Defendants' responsive  
8 pleading, and they propose to submit a status report addressing these two issues  
9 within one week of the Court's resolution of their discovery dispute.

10 **1. Administrative Record and Discovery**

11 Defendants provided the administrative record to Plaintiffs on  
12 November 25, 2019. Plaintiffs previously had requested that Defendants produce  
13 a privilege log in conjunction with the administrative record; Defendants,  
14 however, dispute Plaintiffs' entitlement to a privilege log. Plaintiffs also notified  
15 Defendants that they intended to take discovery on Count IV of their First  
16 Amended Complaint (ECF #31), alleging a violation of equal protection of the  
17 laws guaranteed by the Fifth Amendment Due Process Clause. Defendants  
18 dispute as well Plaintiffs' entitlement to discovery on this claim. The parties  
19 propose the following briefing schedule to present these disputes for resolution:

20  
21  
22

1  
2 Plaintiffs' motion to compel December 19, 2019  
3 privilege log and discovery on  
4 their Equal Protection Clause  
5 claim  
6 Defendants' opposition January 14, 2020  
7 Plaintiffs' reply January 28, 2020

8  
9  
10 In addition, because Plaintiffs are incorporating two motions in a single  
11 filing, the parties submit that good cause exists to increase the page limits for all  
12 of the briefs on this motion from 10 to 15 pages, and the parties therefore request  
13 excess page limits under LCivR 7(f)(5) for all briefs. Each party agrees to the  
14 corresponding extension(s) for the other party.

15 **2. Schedule for a Responsive Pleading and Cross-Dispositive  
16 Motions**

17 The schedule for resolution of this case will be impacted by the outcome  
18 of the foregoing motion. Plaintiffs believe that, if Defendants are required to  
19 produce a privilege log, the privilege log may generate disputes about assertions  
20 of privilege or lead Plaintiffs to identify with specificity additional topics on  
21 which Plaintiffs believe discovery is needed.<sup>1</sup> Further, Defendants are planning  
22 to move to dismiss Plaintiffs' claims, and a decision on whether there will be  
discovery in this case could impact the schedule for dispositive motions and the

---

<sup>1</sup> Plaintiffs are reviewing the administrative record produced by Defendants, and they reserve the right to seek supplementation of the record in the future.

1 scope of such motions. Accordingly, the parties propose that they submit a status  
2 report addressing the deadline for Defendants' responsive pleading and a  
3 dispositive motion briefing schedule within one week of the Court's resolution  
4 of their discovery dispute.

5 RESPECTFULLY SUBMITTED this 16th day of December, 2019.

6 JOSEPH H. HUNT  
7 Assistant Attorney General  
8 ALEXANDER K. HAAS  
Branch Director

9 /s/ Joshua M. Kolsky  
10 ERIC J. SOSKIN  
11 Senior Trial Counsel  
12 KERI L. BERMAN  
13 KUNTAL V. CHOLERA  
14 JOSHUA M. KOLSKY  
15 DC Bar No. 993430  
16 Trial Attorneys  
17 United States Department of Justice  
18 Civil Division, Federal Programs  
19 Branch  
20 1100 L Street NW  
21 Washington, D.C. 20005  
22 Tel: (202) 305-7664  
Fax: (202) 616-8470  
joshua.kolsky@usdoj.gov  
Attorneys for Defendants

ROBERT W. FERGUSON  
Attorney General of Washington

/s/ Jeffrey T. Sprung  
RENE D. TOMISSE, WSBA #17509  
Senior Counsel  
JEFFREY T. SPRUNG, WSBA #23607  
ZACHARY P. JONES, WSBA #44557  
JOSHUA WEISSMAN, WSBA #42648  
PAUL M. CRISALLI, WSBA #40681  
NATHAN K. BAYS, WSBA #43025  
BRYAN M.S. OVENS, WSBA #32901  
Assistant Attorneys General  
8127 W. Klamath Court, Suite A  
Kennewick, WA 99336  
(509) 734-7285  
Rene.Tomisser@atg.wa.gov  
Jeff.Sprung@atg.wa.gov  
Zach.Jones@atg.wa.gov  
Joshua.Weissman@atg.wa.gov  
Paul.Crisalli@atg.wa.gov  
Nathan.Bays@atg.wa.gov  
Bryan.Ovens@atg.wa.gov  
Attorneys for Plaintiff State of  
Washington

MARK R. HERRING  
Attorney General of Virginia

/s/ Michelle S. Kallen  
MICHELLE S. KALLEN,

1 VSB #93286  
2 Deputy Solicitor General  
3 JESSICA MERRY SAMUELS,  
4 VSB #89537  
5 Assistant Solicitor General  
6 RYAN SPREAGUE HARDY,  
7 VSB #78558  
8 ALICE ANNE LLOYD,  
9 VSB #79105  
10 MAMOONA H. SIDDIQUI,  
11 VSB #46455  
12 Assistant Attorneys General  
13 Office of the Attorney General  
14 202 North Ninth Street  
15 Richmond, VA 23219  
16 (804) 786-7240  
17 MKallen@oag.state.va.us  
18 RHardy@oag.state.va.us  
19 ALloyd@oag.state.va.us  
20 MSiddiqui@oag.state.va.us  
21 SolicitorGeneral@oag.state.va.us  
22 *Attorneys for Plaintiff  
Commonwealth of Virginia*

13 PHIL WEISER  
14 Attorney General of Colorado

15 /s/ Eric R. Olson  
16 ERIC R. OLSON, #36414  
17 Solicitor General  
18 Office of the Attorney General  
19 Colorado Department of Law  
20 1300 Broadway, 10th Floor  
21 Denver, CO 80203  
22 (720) 508 6548  
Eric.Olson@coag.gov  
*Attorneys for Plaintiff the State of  
Colorado*

1 KATHLEEN JENNINGS  
2 Attorney General of Delaware  
3 AARON R. GOLDSTEIN  
4 State Solicitor  
5 ILONA KIRSHON  
6 Deputy State Solicitor

7 */s/ Monica A. Horton*  
8 MONICA A. HORTON, #5190  
9 Deputy Attorney General  
10 820 North French Street  
11 Wilmington, DE 19801  
12 Monica.horton@delaware.gov  
13 *Attorneys for Plaintiff the State of*  
14 *Delaware*

15 KWAME RAOUL  
16 Attorney General of Illinois

17 */s/ Liza Roberson-Young*  
18 LIZA ROBERSON-YOUNG,  
19 #6293643  
20 Public Interest Counsel  
21 Office of the Illinois Attorney  
22 General  
100 West Randolph St., 11th Fl.  
Chicago, IL 60601  
(312) 814-5028  
ERobersonYoung@atg.state.il.us  
*Attorney for Plaintiff State of Illinois*

17 CLARE E. CONNORS  
18 Attorney General of Hawai‘i

19 */s/ Lili A. Young*  
20 LILI A. YOUNG, #5886  
21 Deputy Attorney General  
22 Department of the Attorney General  
425 Queen Street  
Honolulu, HI 96813

1 (808) 587-3050;  
2 Lili.A.Young@hawaii.gov  
3 *Attorneys for Plaintiff State of*  
4 *Hawai'i*  
5 BRIAN E. FROSH  
6 Attorney General of Maryland

7 */s/ Jeffrey P. Dunlap*  
8 JEFFREY P. DUNLAP  
9 #1812100004  
10 Assistant Attorney General  
11 200 St. Paul Place  
12 Baltimore, MD 21202  
13 T: (410) 576-7906  
14 F: (410) 576-6955  
15 JDunlap@oag.state.md.us  
16 *Attorneys for Plaintiff State of*  
17 *Maryland*

18 MAURA HEALEY  
19 Attorney General of Commonwealth  
20 of Massachusetts

21 */s/ Abigail B. Taylor*  
22 ABIGAIL B. TAYLOR, #670648  
23 Chief, Civil Rights Division  
24 DAVID UREÑA, #703076  
25 Special Assistant Attorney General  
26 ANGELA BROOKS, #663255  
27 Assistant Attorney General  
28 Office of the Massachusetts Attorney  
29 General  
30 One Ashburton Place  
31 Boston, MA 02108  
32 (617) 963-2232  
33 abigail.taylor@mass.gov  
34 david.urena@mass.gov  
35 angela.brooks@mass.gov  
36 *Attorneys for Plaintiff*  
37 *Commonwealth of Massachusetts*

1 DANA NESSEL  
2 Attorney General of Michigan

3 /s/Toni L. Harris  
4 FADWA A. HAMMOUD, #P74185  
5 Solicitor General  
6 TONI L. HARRIS, #P63111  
7 *First Assistant Attorney General*  
8 Michigan Department of Attorney  
9 General  
P. O. Box 30758  
Lansing, MI 48909  
(517) 335-7603 (main)  
HarrisT19@michigan.gov  
Hammoudf1@michigan.gov  
*Attorneys for the People of Michigan*

10 KEITH ELLISON  
11 Attorney General of Minnesota

12 /s/ R.J. Detrick  
13 R.J. DETRICK, #0395336  
14 *Assistant Attorney General*  
15 Minnesota Attorney General's Office  
16 Bremer Tower, Suite 100  
17 445 Minnesota Street  
18 St. Paul, MN 55101-2128  
19 (651) 757-1489  
20 (651) 297-7206  
21 Rj.detrick@ag.state.mn.us  
22 *Attorneys for Plaintiff State of  
Minnesota*

18 AARON D. FORD  
19 Attorney General of Nevada

20 /s/ Heidi Parry Stern  
21 HEIDI PARRY STERN, #8873  
22 Solicitor General  
Office of the Nevada Attorney  
General

1 555 E. Washington Ave., Ste. 3900  
2 Las Vegas, NV 89101  
3 HStern@ag.nv.gov  
4 *Attorneys for Plaintiff State of*  
5 *Nevada*

6 GURBIR S. GREWAL  
7 Attorney General of New Jersey

8 /s/ Glenn J. Moramarco  
9 GLENN J. MORAMARCO,  
10 #030471987  
11 Assistant Attorney General  
12 Office of the Attorney General  
13 Richard J. Hughes Justice Complex  
14 25 Market St., 1st Fl., West Wing  
15 Trenton, NJ 08625-0080  
16 (609) 376-3232  
17 Glenn.Moramarco@law.njoag.gov  
18 *Attorneys for Plaintiff State of New*  
19 *Jersey*

20 HECTOR BALDERAS  
21 Attorney General of New Mexico

22 /s/ Tania Maestas  
23 TANIA MAESTAS, #20345  
24 Chief Deputy Attorney General  
25 P. O. Drawer 1508  
26 Santa Fe, NM 87504-1508  
27 tmaestas@nmag.gov  
28 *Attorneys for Plaintiff State of New*  
29 *Mexico*

30 PETER F. NERONHA  
31 Attorney General of Rhode Island

32 /s/ Lauren E. Hill  
33 LAUREN E. HILL, #9830  
34 Special Assistant Attorney General  
35 Office of the Attorney General

1 150 South Main Street  
2 Providence, RI 02903  
3 (401) 274-4400 x 2038  
4 lhill@riag.ri.gov  
5 *Attorneys for Plaintiff State of Rhode*  
6 *Island*

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

## **DECLARATION OF SERVICE**

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court's CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 16th day of December, 2019, at Seattle, Washington.

*/s/ Jeffrey T. Sprung*  
JEFFREY T. SPRUNG, WSBA #23607  
Assistant Attorney General